

ACT 68

S.B. NO. 1706

A Bill for an Act Relating to Employment Security.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that significant international, national, and local economic, technological, and demographic changes can only have a profound impact on the work force in Hawaii. For example, we have already witnessed worker and skill shortages resulting in a reduction of government services.

The legislature further finds that innovative programs must be adopted presently to ensure that local residents and Hawaii will not be adversely affected by these significant changes. Cooperation between business and government is required to diversify job opportunities and to enable local residents to compete for the new skilled positions. Workers must be prepared for the impact of these economic, technological, and demographic changes.

The legislature further finds that significant changes in the international, national, and local economic situations call for other action related to the employment security law.

The purpose of this Act is to establish an employment and training fund to assist employers and workers through innovative programs to include, but not be limited to, business-specific training, upgrade training, new occupational skills, management skills, and support services to improve the long-term employability of Hawaii's people. Such programs must be flexible, timely, and adaptable, to meet the rapid changes of our economy.

The other purpose of this Act is to amend the employment security law to provide a more equitable contribution system designed to create an adequate reserve fund to meet benefit costs but prevent an over accumulation of moneys, and benefit adjustments for unemployed workers to restore lost purchasing power.

SECTION 2. Chapter 383, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

“§383- Employment and training fund established. (a) Effective January 1, 1992, there is established in the state treasury, apart from all other funds in this State, a special fund to be known as the employment and training fund. All assessments collected pursuant to section 383- and all other moneys received by the fund from any other source shall be deposited into the employment and training fund.

(b) The moneys in the employment and training fund may be used for funding:

- (1) The operation of the state employment service for which no federal funds have been allocated;
- (2) Business-specific training programs to create a more diversified job base and to carry out the purposes of the new industry training program pursuant to section 394-8;

- (3) Industry or employer-specific training programs where there are critical skill shortages in high growth occupational or industry areas;
- (4) Training and retraining programs to assist workers who have become recently unemployed or likely to be unemployed;
- (5) Programs to assist residents who do not otherwise qualify for federal or state job training programs to overcome employment barriers; and
- (6) Training programs to provide job-specific skills for individuals in need of such assistance to improve career employment prospects.

(c) The director may require employers assisted by any of these programs to contribute up to fifty per cent of the cost of such assistance in cash or in-kind contributions.

(d) The department is authorized to contract for employment, education, and training services from public and private agencies and nonprofit corporations. These services shall be exempt from chapter 42 so funds for these services may be expended in a timely manner to effectuate the purposes of this section.

(e) The director shall submit a report to the legislature on the status of the employment and training fund, including expenditures and program results, at least twenty days prior to the convening of each regular legislative session.

(f) The director of finance shall act as the treasurer and custodian of the employment and training fund, invest those moneys in accordance with applicable laws and rules, and disburse the moneys in the employment and training fund in accordance with directions by the director of labor and industrial relations. All interest earned from investment of moneys in the employment and training fund shall be deposited in the fund. The director of finance shall be liable on the director's official bond for the faithful performance of all duties in connection with the employment and training fund. All sums recovered on the surety bond for losses sustained by the employment and training fund shall be deposited in the fund.

(g) Administrative costs for the collection of employment and training fund contributions and for costs related to the establishment and maintenance of the employment and training fund shall be borne by the fund beginning with fiscal year 1992-1993 and thereafter.

(h) The director may establish positions and hire necessary personnel to establish and administer the employment and training fund without regard to chapters 76 and 77.

§383- Employment and training assessment. (a) Effective January 1, 1992, through December 31, 1996, in addition to contributions determined by section 383-68, every employer, except an employer who has selected an alternative method of financing liability for unemployment compensation benefits pursuant to section 383-62 or an employer who has been assigned a minimum rate of zero per cent or the maximum rate of five and four-tenths per cent in accordance with section 383-68, shall be subject to an employment and training fund assessment at a rate of .05 per cent of taxable wages as specified in section 383-61.

(b) Collections from the employment and training assessment shall be made in the same manner and at the same time as any contributions required under section 383-61, and shall not be deducted, in whole or in part, from the wages of individuals in an employer's employ.

(c) Any assessments collected pursuant to this section shall remain separate and shall not be included in any manner in computing unemployment contribution rates assigned to employers in accordance with sections 383-63 to 383-68.

(d) The director may impose penalty and interest on delinquent employment and training assessments in the same manner as provided for contributions

to the unemployment compensation fund in section 383-73. For purposes of computation of penalty and interest under this subsection, employment and training assessments shall be considered part of the employer's contributions to the unemployment compensation fund.

(e) Collection of money from an employer delinquent in paying employment and training assessments or contributions to the unemployment compensation fund pursuant to this chapter shall first be applied to interest and penalty, then applied to delinquent unemployment compensation contributions, and finally to delinquent employment and training assessments."

SECTION 3. Section 383-22, Hawaii Revised Statutes, is amended to read as follows:

“§383-22 Weekly benefit amount; computation, minimum and maximum. (a) In the case of an individual who has established a benefit year prior to January 2, 1966, the individual's weekly benefit amount shall be the amount appearing in column B in the table in this section on the line on which, in column A of the table, there appears the total wages paid to the individual for insured work in that quarter of the individual's base period in which the total wages were highest.

(b) In the case of an individual whose benefit year begins [on or after January 2, 1966,] prior to January 5, 1992, the individual's weekly benefit amount shall be, except as otherwise provided [herein,] in this section, an amount equal to one twenty-fifth of the individual's total wages for insured work paid during the calendar quarter of the individual's base period in which such total wages were highest. In the case of an individual whose benefit year begins after January 4, 1992, the individual's weekly benefit amount shall be, except as otherwise provided in this section, an amount equal to one twenty-first of the individual's total wages for insured work paid during the calendar quarter of the individual's base period in which such total wages were highest. The weekly benefit amount, if not a multiple of \$1, shall be computed to the next higher multiple of \$1. If an individual's weekly benefit amount is less than [five dollars,] \$5, it shall be [five dollars.] \$5. The maximum weekly benefit amount shall be determined annually as follows: On or before November 30 of each year the total remuneration paid by employers, as reported on contribution reports submitted on or before such date, with respect to all employment during the four consecutive calendar quarters ending on June 30 of the year shall be divided by the average monthly number of individuals performing services in the employment during the same four calendar quarters as reported on the contribution reports. The amount thus obtained shall be divided by fifty-two and the average weekly wage (rounded to the nearest cent) thus determined. [Two-thirds] For benefit years beginning prior to January 1, 1992, two-thirds of the average weekly wage shall constitute the maximum weekly benefit amount and shall apply to all claims for benefits filed by an individual qualifying for payment at the maximum weekly benefit amount in the benefit year commencing on or after the first day of the calendar year immediately following the determination of the maximum weekly benefit amount. For benefit years beginning January 1, 1992, and thereafter, seventy per cent of the average weekly wage shall constitute the maximum weekly benefit amount and shall apply to all claims for benefits filed by an individual qualifying for payment at the maximum weekly benefit amount in the benefit year commencing on or after the first day of the calendar year immediately following the determination of the maximum weekly benefit amount. The maximum weekly benefit amount, if not a multiple of \$1, shall be computed to the next higher multiple of \$1.

[With respect to weeks of unemployment beginning on or after January 1, 1978, wages for insured work shall include wages paid for previously uncovered services. For the purposes of this subsection, the term "previously uncovered services" means services:

- (1) Which were not employment, as defined in section 383-2 or pursuant to an election under section 383-77 prior to January 1, 1978, at any time during the one-year period ending December 31, 1975; and
- (2) Which are agricultural labor as defined in section 383-9 except such service excluded under section 383-7(1), or are domestic service except such service excluded under section 383-7(2); except to the extent that assistance under title II of the Emergency Jobs and Unemployment Assistance Act of 1974 was paid on the basis of such services.]

(Column A) High Quarter Wages	(Column B) Basic Weekly Benefit	(Column C) Minimum Qualifying Wages	(Column D) Maximum Total Benefits in Benefit Year
\$ 37.50 - 125.00	\$ 5.00	\$ 150.00	\$ 130.00
125.01 - 150.00	6.00	180.00	156.00
150.01 - 175.00	7.00	210.00	182.00
175.01 - 200.00	8.00	240.00	208.00
200.01 - 225.00	9.00	270.00	234.00
225.01 - 250.00	10.00	300.00	260.00
250.01 - 275.00	11.00	330.00	286.00
275.01 - 300.00	12.00	360.00	312.00
300.01 - 325.00	13.00	390.00	338.00
325.01 - 350.00	14.00	420.00	364.00
350.01 - 375.00	15.00	450.00	390.00
375.01 - 400.00	16.00	480.00	416.00
400.01 - 425.00	17.00	510.00	442.00
425.01 - 450.00	18.00	540.00	468.00
450.01 - 475.00	19.00	570.00	494.00
475.01 - 500.00	20.00	600.00	520.00
500.01 - 525.00	21.00	630.00	546.00
525.01 - 550.00	22.00	660.00	572.00
550.01 - 575.00	23.00	690.00	598.00
575.01 - 600.00	24.00	720.00	624.00
600.01 - 625.00	25.00	750.00	650.00
625.01 - 650.00	26.00	780.00	676.00
650.01 - 675.00	27.00	810.00	702.00
675.01 - 700.00	28.00	840.00	728.00
700.01 - 725.00	29.00	870.00	754.00
725.01 - 750.00	30.00	900.00	780.00
750.01 - 775.00	31.00	930.00	806.00
775.01 - 800.00	32.00	960.00	832.00
800.01 - 825.00	33.00	990.00	858.00
825.01 - 850.00	34.00	1020.00	884.00
850.01 - 875.00	35.00	1050.00	910.00
875.01 - 900.00	36.00	1080.00	936.00
900.01 - 925.00	37.00	1110.00	962.00
925.01 - 950.00	38.00	1140.00	988.00

(Column A)	(Column B)	(Column C)	(Column D)
High Quarter Wages	Basic Weekly Benefit	Minimum Qualifying Wages	Maximum Total Benefits in Benefit Year
950.01 - 975.00	39.00	1170.00	1014.00
975.01 - 1000.00	40.00	1200.00	1040.00
1000.01 - 1025.00	41.00	1230.00	1066.00
1025.01 - 1050.00	42.00	1260.00	1092.00
1050.01 - 1075.00	43.00	1290.00	1118.00
1075.01 - 1100.00	44.00	1320.00	1144.00
1100.01 - 1125.00	45.00	1350.00	1170.00
1125.01 - 1150.00	46.00	1380.00	1196.00
1150.01 - 1175.00	47.00	1410.00	1222.00
1175.01 - 1200.00	48.00	1440.00	1248.00
1200.01 - 1225.00	49.00	1470.00	1274.00
1225.01 - 1250.00	50.00	1500.00	1300.00
1250.01 - 1275.00	51.00	1530.00	1326.00
1275.01 - 1300.00	52.00	1560.00	1352.00
1300.01 - 1325.00	53.00	1590.00	1378.00
1325.01 - 1350.00	54.00	1620.00	1404.00
1350.01 and over	55.00	1650.00	1430.00"

SECTION 4. Section 383-23, Hawaii Revised Statutes, is amended to read as follows:

“§383-23 Weekly benefit for unemployment. [Each] For weeks beginning prior to January 5, 1992, each eligible individual who is unemployed, as defined in section 383-1, in any week shall be paid with respect to [such] that week a benefit in an amount equal to the individual’s weekly benefit amount less that part of the wages (if any) payable to the individual with respect to [such] that week which is in excess of \$2. Effective for weeks beginning January 5, 1992, and thereafter, each eligible individual who is unemployed, as defined in section 383-1, in any week shall be paid with respect to that week a benefit in an amount equal to the individual’s weekly benefit amount less that part of the wages (if any) payable to the individual with respect to that week which is in excess of \$50. The benefit, if not a multiple of \$1, shall be computed to the next higher multiple of \$1.”

SECTION 5. Section 383-29, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

- (1) Claim. The individual has made a claim for benefits with respect to that week in accordance with rules the department may prescribe.
- (2) Registration. The individual has registered for work at, and thereafter continued to report at, an employment office in accordance with rules the department may prescribe, except that the department, by rule, may waive or alter either or both of the requirements of this paragraph as to individuals attached to regular jobs and as to other types of cases or situations with respect to which it finds that compliance with those requirements would be oppressive, or would be

inconsistent with the purpose of this chapter; provided that no such rule shall conflict with section 383-21.

- (3) Availability. The individual is able to work and is available for work; provided that no claimant shall be considered ineligible with respect to any week of unemployment for failure to comply with this paragraph if the failure is due to an illness or disability, as evidenced by a physician's certificate, which occurs during an uninterrupted period of unemployment with respect to which benefits are claimed and no work which would have been suitable prior to the beginning of the illness and disability has been offered the claimant.
- (4) Waiting period. The individual has been unemployed for a waiting period of one week within the individual's benefit year. No week shall be counted as a waiting period:
 - (A) If benefits have been paid with respect thereto;
 - (B) Unless the individual was eligible for benefits with respect thereto as provided in this section and section 383-30, except for the requirements of this paragraph.
- (5) Wages for insured work; weeks of employment.
 - [(A) In the case of an individual who has established a benefit year prior to January 3, 1965, the individual has been paid wages for insured work during the individual's base period in an amount equal to at least the amount appearing in column C of the schedule in section 383-22 on the line on which, in column B of the schedule, appears the individual's weekly benefit amount.
 - (B) In the case of an individual who has established a benefit year after January 2, 1965, but prior to January 2, 1966, the individual has had during the individual's base period a total of fourteen or more weeks of employment as defined in section 383-1 and has been paid wages for insured work during the individual's base period in an amount equal to at least the amount appearing in column C of the schedule in section 383-22 on the line on which, in column B of the schedule, appears the individual's weekly benefit amount.
 - (C) (A) In the case of an individual whose benefit year begins on or after January 2, 1966, but prior to October 1, 1989, the individual has had during the individual's base period a total of fourteen or more weeks of employment as defined in section 383-1 and has been paid wages for insured work during the individual's base period in an amount equal to at least thirty times the individual's weekly benefit amount as determined under section 383-22(b). For the purposes of this subparagraph, wages for insured work shall include wages paid for services:
 - (i) Which were not employment, as defined in section 383-2 or pursuant to an election under section 383-77 prior to January 1, 1978, at any time during the one-year period ending December 31, 1975; and
 - (ii) Which are agricultural labor as defined in section 383-9 except service excluded under section 383-7(1), or are domestic service except service excluded under section 383-7(2); except to the extent that assistance under title II of the Emergency Jobs and Unemployment Assistance Act of 1974 was paid on the basis of those services.

- [(D)] (B) In the case of an individual whose benefit year begins on and after October 1, 1989[,] to January 4, 1992, the individual has been employed as defined in section 383-2 and has been paid wages for insured work during the individual's base period in an amount equal to not less than thirty times the individual's weekly benefit amount, as determined under section 383-22(b), and the individual has been paid wages for insured work during at least two quarters of the individual's base period; provided that no otherwise eligible individual who established a prior benefit year under this chapter or the unemployment compensation law of any other state, shall be eligible to receive benefits in a succeeding benefit year until, during the period following the beginning of the prior benefit year, that individual worked in covered employment for which wages were paid in an amount equal to at least five times the weekly benefit amount established for that individual in the succeeding benefit year.
- (C) In the case of an individual whose benefit year begins after January 4, 1992, the individual has been employed as defined in section 383-2 and has been paid wages for such insured work during the individual's base period in an amount equal to not less than twenty-six times the individual's weekly benefit amount, as determined under section 383-22(b), and the individual has been paid wages for insured work during at least two quarters of the individual's base period; provided that no otherwise eligible individual who established a prior benefit year under this chapter or the unemployment compensation law of any other state, shall be eligible to receive benefits in a succeeding benefit year until, during the period following the beginning of the prior benefit year, that individual worked in covered employment for which wages were paid in an amount equal to at least five times the weekly benefit amount established for that individual in the succeeding benefit year.
- [(E)] (D) For the purposes of this paragraph, wages and weeks of employment shall be counted for benefit purposes with respect to any benefit year only if the benefit year begins subsequent to the dates on which the employing unit by which the wages or other remuneration as provided in the definition of weeks of employment in section 383-1 were paid has satisfied the conditions of section 383-1 with respect to becoming an employer."

SECTION 6. Section 383-63, Hawaii Revised Statutes, is amended by amending the definition of "adequate reserve fund" to read as follows:

"Adequate reserve fund" means an amount [which] that is equal to the amount derived by multiplying the benefit cost rate [which] that is the highest during the ten-year period ending on November 30 of each year by the total remuneration paid by all employers, with respect to all employment for which contributions are payable during the last four calendar quarters ending on June 30 of the same year, as reported on contribution reports filed on or before October 31 of the same year. "Remuneration", as used in this [paragraph,] definition, means wages as defined in section 383-10. For the purpose of determining the highest benefit cost rate, the benefit cost rate for the first twelve-consecutive-

calendar-month period beginning with the first day of the first month of the ten-year period and for each succeeding twelve-consecutive-calendar-month period beginning with the first day of each subsequent month shall be computed.

Effective for the calendar year 1992 and thereafter, "adequate reserve fund" means an amount that is equal to one and one-half times the amount derived by multiplying the benefit cost rate that is the highest during the ten-year period ending on November 30 of each year by the total remuneration paid by all employers, with respect to all employment for which contributions are payable during the last four calendar quarters ending on June 30 of the same year, as reported on contribution reports filed on or before October 31 of the same year. "Remuneration", as used in this definition, means wages as defined in section 383-10. For the purpose of determining the highest benefit cost rate, the benefit cost rate for the first twelve-consecutive-calendar-month period beginning with the first day of the first month of the ten-year period and for each succeeding twelve-consecutive-calendar-month period beginning with the first day of each subsequent month shall be computed."

SECTION 7. Section 383-66, Hawaii Revised Statutes, is amended to read as follows:

"§383-66 Contribution rates, how determined. The department, for the nine-month period April 1, 1941, to December 31, 1941, and for each calendar year thereafter, except as otherwise provided in this part, shall classify employers in accordance with their actual experience in the payment of contributions and with respect to benefits charged against their accounts with a view to fixing the contribution rates to reflect this experience. The department shall determine the contribution rate of each employer in accordance with the following requirements:

- (1) The standard rate of contributions payable by each employer for any calendar year through 1984 shall be three per cent. For the calendar year 1985 and thereafter the standard rate of contributions payable by each employer shall be five and four-tenths per cent.
- (2) No employer's rate for the calendar year 1942 and for any calendar year thereafter shall be other than the maximum rate unless and until the employer's account has been chargeable with benefits throughout the thirty-six consecutive calendar month period ending on December 31 of the preceding calendar year, except that, for the calendar year 1956 and for each calendar year thereafter, an employer who has not been subject to the law for a sufficient period to meet this requirement may qualify for a rate other than the maximum rate if the employer's account has been chargeable throughout a lesser period but in no event less than the twelve consecutive calendar month period ending on December 31 of the preceding calendar year. For the calendar [year] years 1985 [and for each calendar year thereafter,] through 1991, the contribution rate for a new or newly covered employer shall be the sum of the employer's basic contribution rate of three and six-tenths per cent and the fund solvency contribution rate determined for that year pursuant to section [383-68(c)(2),] 383-68(a), until the employer's account has been chargeable with benefits throughout the twelve consecutive calendar month period ending on December 31 of the preceding calendar year; except that no employer's contribution rate shall be greater than five and four-tenths per cent and no employer with a negative reserve

ratio shall have a contribution rate less than the employer's basic contribution rate. For calendar years 1992 and thereafter, the contribution rate for a new or newly covered employer shall be the contribution rate assigned to any employer with .0000 reserve ratio, until the employer's account has been chargeable with benefits throughout the twelve consecutive calendar month period ending on December 31 of the preceding calendar year.

- (3) [No employer's rate for the calendar year 1965 and for any calendar year thereafter, or remaining calendar quarter thereof, as the case may be, through December 31, 1976, shall be less than the standard rate unless the total assets of the fund as of the end of the previous calendar year, or calendar quarter, were at least \$15,000,000; provided that each employer's rate for any calendar year or any portion thereof, as determined by other applicable provisions of this part, shall be increased by one-half per cent, if the total assets of the fund as of the end of the previous calendar year or calendar quarter were at least \$15,000,000 but less than \$20,000,000, but in no event shall an employer's rate exceed the standard rate.] Any amount credited to this State under section 903 of the Social Security Act, as amended, which has been appropriated for expenses of administration, whether or not withdrawn from the trust fund, shall be excluded from the fund for the purposes of this paragraph. Any advance that may be made to this State under section 1201 of the Social Security Act, whether or not withdrawn from this trust fund, shall be excluded from the fund for the purposes of this paragraph. No employer's rate shall be reduced in any amount which is not allowable as an additional credit, against the tax levied by the federal Unemployment Tax Act pursuant to section 3302(b) of the federal Internal Revenue Code or pursuant to any other federal statute, successor to section 3302(b), which provides for the additional credit now provided for in section 3302(b).
- (4) If, when any classification of employers is to be made (which may be after the commencement of the period for which the classification is to be made), the department finds that any employer has failed to file any report required in connection therewith or has filed a report [which] that the department finds incorrect or insufficient, the department shall notify the employer thereof by mail addressed to the employer's last known address. Unless the employer files the report or a corrected or sufficient report, as the case may be, within fifteen days after the mailing of the notice, the maximum rate of contributions shall be payable by the employer for the period for which the contribution rate is to be fixed. Effective January 1, 1987, the director, for excusable failure, may redetermine the assignment of the maximum contribution rate in accordance with this section, provided the employer files all reports as required by the department and submits a written request for redetermination before December 31 of the year for which the contribution rate is to be fixed.
- (5) For the purpose of sections 383-63 to 383-69, if after December 31, 1939, any employing unit in any manner succeeds to or acquires the organization, trade, or business, or substantially all the assets thereof (whether or not the successor or acquiring unit was an "employing unit", as that term is defined in section 383-1 prior to the acquisition), or after December 31, 1988 and prior to December 31, 1992

acquires a clearly identifiable and segregable portion of the organization, trade, or business of another which at the time of the acquisition was an employer subject to this chapter, and the successor continues or resumes the organization, trade, or business and continues to employ all or nearly all of the predecessor's employees, or the successor continues or resumes the clearly identifiable and segregable portion of the organization, trade, or business and continues to employ all or nearly all of the employees of the clearly identifiable and segregable portion, an application may be made for transfer of the predecessor's experience record. If the predecessor employer has submitted all information and reports required by the department including amended quarterly wage reports identifying the employees transferred or retained and executed and filed with the department before December 31 of the calendar year following the calendar year in which the acquisition occurred on a form approved by the department a waiver relinquishing the rights to all or the clearly identifiable and segregable portion of the predecessor's prior experience record with respect to its separate account, actual contribution payment, and benefit chargeability experience, annual payrolls and other data for the purpose of obtaining a reduced rate, and requesting the department to permit the experience record to inure to the benefit of the successor employing unit upon request of the successor employing unit, the experience record for rate computation purposes of the predecessor shall thereupon be deemed the experience record of the successor and the experience record shall be transferred by the department to the successor employing unit and shall become the separate account of the employing unit as of the date of the acquisition. Benefits chargeable to the predecessor employer or successor employer in case of an acquisition of a clearly identifiable and segregable portion of the organization, trade, or business, after the date of acquisition on account of employment prior to the date of the acquisition shall be charged to the separate account of the successor employing unit. In case of an acquisition of a clearly identifiable and segregable portion of the organization, trade, or business, the experience record that inures to the benefit of the successor employer shall be determined as follows:

- (A) Wages, as used in section 383-61, attributable to the clearly identifiable and segregable portion shall be for the period beginning with the most recent three consecutive calendar years immediately preceding the determination of rates under section 383-63 to 383-69 and through the date of acquisition; and
- (B) Reserve balance attributable to the clearly identifiable and segregable portion shall be the amount determined by dividing the wages, as used in section 383-61, of the clearly identifiable and segregable portion in the three calendar years (or that lesser period as the clearly identifiable and segregable portion may have been in operation) immediately preceding the computation date of the rating period prior to which the acquisition occurred by the total taxable payrolls of the predecessor for the three-year period (or that lesser period as the clearly identifiable and segregable portion may have been in operation) and multiplying the quotient by the reserve balance of the predecessor employer calculated as of the acquisition date.

Provided the waiver or waivers required herein are filed with the department within sixty days after the date of acquisition, the successor employing unit, unless already an employer subject to this chapter, shall be subject from the date of acquisition to the rate of contribution of the predecessor or of two or more predecessors if they have the same contribution rate. If there are two or more predecessors having different contribution rates, the successor shall be subject to the rate prescribed for new or newly covered employers under paragraph (2) until the next determination of rates under sections 383-63 to 383-69, at which time the experience records of the predecessors and successor shall be combined and shall be deemed to be the experience record of a single employing unit and the successor's rate shall thereupon be determined upon the basis of the combined experience. If the successor at the time of the transfer is an employer subject to this chapter, the rate of contribution to which the successor is then subject shall remain the same until the next determination of rates under sections 383-63 to 383-69, at which time the experience records of the predecessor and successor shall be combined and shall be deemed to be the experience record of a single employing unit and the successor's rate shall thereupon be determined upon the basis of the combined experience. For the purpose of determination of rates under sections 383-63 to 383-69 of all successor employing units, waivers as required herein, if not previously filed as hereinabove provided, shall be filed with the department not later than March 1 of the year for which the rate is determined; provided that no waiver shall be accepted by the department for filing unless the employing unit executing the waiver has filed all reports and paid all contributions required by this chapter.

- (6) The department may prescribe rules for the establishment, maintenance, and dissolution of joint accounts by two or more employers, and, in accordance with the rules and upon application by two or more employers to establish such an account, or to merge their several individual accounts in a joint account, shall maintain the joint account as if it constituted a single employer's account. The rules shall be consistent with the federal requirements for additional credit allowance in section 3303 of the federal Internal Revenue Code and consistent with this chapter.
- (7) Whenever there is an amendment to this chapter which, if immediately effective, would change an employer's rate of contributions, the rate of the employer shall be changed in accordance with the amendment and the new rate shall apply for the remainder of the calendar year beginning with the calendar quarter immediately following the effective date of the amendment providing for the change, unless otherwise provided by the amendment.
- (8) For the purposes of this section "contribution rate" shall mean the basic contribution rate as defined in section 383-68 when applied to calendar year 1978 or any calendar year thereafter.
- (9) For the purposes of this section, the terms "employing unit," "employer," "predecessor," and "successor" shall include both the singular and the plural of each term. Nothing in this section shall prevent two or more successor employing units, which each succeed to

or acquire a clearly identifiable and segregable portion of a predecessor employing unit, from gaining the benefit of the clearly identifiable and segregable portion of the predecessor's experience record.

Provided that the terms of this section are complied with, nothing herein shall bar a predecessor employer from waiving the rights to all or the clearly identifiable and segregable portion of the predecessor's prior experience record in favor of a successor employer where the successor acquired a clearly identifiable and segregable portion of the predecessor's organization, trade, or business after December 31, 1988 and prior to December 31, 1992."

SECTION 8. Section 383-68, Hawaii Revised Statutes, is amended to read as follows:

"§383-68 Contribution rate schedules; fund solvency rate schedule; rates based on experience. [(a) Before December 31 of each year through calendar year 1975 the contribution rate schedule applicable for the following calendar year shall be determined on the basis of the relationship between the most recent current reserve fund and the most recent adequate reserve fund, in accordance with the provisions of this subsection and subsection (b). If the current reserve fund is less than the adequate reserve fund, contribution rate schedule I in subsection (b) shall apply; if the current reserve fund equals or exceeds the adequate reserve fund but is less than 1.5 times the adequate reserve fund, contribution rate schedule II in subsection (b) shall apply; and if the current reserve fund equals or exceeds 1.5 times the adequate reserve fund, contribution rate schedule III in subsection (b) shall apply. If, however, the total assets of the fund available for the payment of benefits at the end of a calendar year, or calendar quarter, are \$15,000,000 or more but less than \$20,000,000, the applicable contribution rate schedule for the following calendar year, or remaining calendar quarters in the calendar year, as the case may be, shall be contribution rate schedule I, and if the assets are less than \$15,000,000 at the end of a calendar year, or calendar quarter, this subsection and subsection (b) shall not apply during the following calendar year, or remaining calendar quarters in the calendar year, as the case may be.

(b) Subject to the requirements of sections 383-63 to 383-67 and 383-69, an employer's contribution rate for any calendar year through December 31, 1976, shall be that rate which appears on the same line as the employer's reserve ratio for the year in the contribution rate schedule applicable for the year as specified in subsection (a).

CONTRIBUTION RATE SCHEDULE

Employer Reserve Ratio	Contribution Rate		
	Schedule I	Schedule II	Schedule III
.1000 or more	.8 per cent	.4 per cent	.2 per cent
.0950 - .0999	1.0 per cent	.6 per cent	.4 per cent
.0900 - .0949	1.2 per cent	.8 per cent	.6 per cent
.0850 - .0899	1.4 per cent	1.0 per cent	.8 per cent
.0800 - .0849	1.6 per cent	1.2 per cent	1.0 per cent
.0750 - .0799	1.8 per cent	1.4 per cent	1.2 per cent
.0700 - .0749	2.0 per cent	1.6 per cent	1.4 per cent
.0650 - .0699	2.2 per cent	1.8 per cent	1.6 per cent
.0600 - .0649	2.4 per cent	2.0 per cent	1.8 per cent
.0550 - .0599	2.6 per cent	2.2 per cent	2.0 per cent

CONTRIBUTION RATE SCHEDULE

Employer Reserve Ratio	Contribution Rate		
	Schedule I	Schedule II	Schedule III
.0500 - .0549	2.8 per cent	2.4 per cent	2.2 per cent
.0450 - .0499	2.8 per cent	2.6 per cent	2.4 per cent
.0400 - .0449	2.8 per cent	2.8 per cent	2.6 per cent
.0350 - .0399	2.8 per cent	2.8 per cent	2.8 per cent
Less than .0350	3.0 per cent	3.0 per cent	3.0 per cent

(c) For calendar years 1979 through 1984 the contribution rate of any employer eligible for a reduced rate in accordance with section 383-66(2) shall be the sum of the employer's basic contribution rate for such year determined pursuant to paragraph (1) of this subsection and the fund solvency contribution rate determined for such year pursuant to paragraph (2) of this subsection; except that no employer's contribution rate shall be less than zero, no employer's contribution rate shall be greater than four and one-half per cent for calendar years 1979 through 1984, and no employer with a negative reserve ratio shall have a contribution rate less than such employer's basic contribution rate.

- (1) Subject to the requirements of sections 383-63 through 383-67 and section 383-69, an employer's basic contribution rate for a calendar year shall be that rate which appears on the same line as the employer's reserve ratio for the year in the basic contribution rate schedule set forth in this paragraph.

BASIC CONTRIBUTION RATE SCHEDULE

Reserve Ratio	Contribution Rate
.1500 and over	.2 per cent
.1400 - .1499	.4 per cent
.1300 - .1399	.6 per cent
.1200 - .1299	.8 per cent
.1100 - .1199	1.0 per cent
.1000 - .1099	1.2 per cent
.0900 - .0999	1.4 per cent
.0800 - .0899	1.6 per cent
.0700 - .0799	1.8 per cent
.0600 - .0699	2.2 per cent
.0500 - .0599	2.6 per cent
0 - .0499	3.0 per cent
Less than 0	4.5 per cent

(2)] (a) Before December 31 of each year the fund solvency contribution rate applicable for the following calendar year shall be determined on the basis of the relationship between the most recent current reserve fund and the most recent adequate reserve fund. The fund solvency contribution rate shall apply for [a calendar year] calendar years 1985 through 1991 and shall be that rate [which] that appears on the same line as the ratio (rounded to the nearest hundredth) of the current reserve fund to the adequate reserve fund in the fund solvency contribution rate schedule set forth in this paragraph.

FUND SOLVENCY CONTRIBUTION RATE SCHEDULE

Ratio of Current Reserve Fund to Adequate Reserve Fund	Fund Solvency Contribution Rate
2.00 or more	- .5 per cent
1.50 to 1.99	-.2 per cent
1.00 to 1.49	0
.90 to .99	+ .4 per cent
.80 to .89	+ .8 per cent
.60 to .79	+1.2 per cent
.40 to .59	+1.6 per cent
.20 to .39	+2.0 per cent
Less than .20	+2.4 per cent

[(d)] (b) For calendar [year] years 1985 [and for each calendar year thereafter] through 1991 the contribution rate of any employer eligible for a reduced rate in accordance with section 383-66(2) shall be the sum of the employer's basic contribution rate for such year determined pursuant to this subsection and the fund solvency contribution rate determined for such year pursuant to subsection [(c)(2);] (a); except that no employer's contribution rate shall be less than zero, no employer's contribution rate shall be greater than five and four-tenths per cent, and no employer with a negative reserve ratio shall have a contribution rate less than such¹ that employer's basic contribution rate.

Subject to the requirements of sections 383-63 to 383-67 and 383-69, an employer's basic contribution rate for a calendar year shall be that rate which appears on the same line as the employer's reserve ratio for the year in the basic contribution rate schedule set forth in this subsection.

BASIC CONTRIBUTION RATE SCHEDULE

Reserve Ratio	Contribution Rate
.1500 and over	.2 per cent
.1400 to .1499	.4 per cent
.1300 to .1399	.6 per cent
.1200 to .1299	.8 per cent
.1100 to .1199	1.0 per cent
.1000 to .1099	1.2 per cent
.0900 to .0999	1.4 per cent
.0800 to .0899	1.6 per cent
.0700 to .0799	1.8 per cent
.0600 to .0699	2.2 per cent
.0500 to .0599	2.6 per cent
.0300 to .0499	3.0 per cent
.0000 to .0299	3.6 per cent
-.0000 to -.0499	4.2 per cent
-.0500 to -.0999	4.8 per cent
-.1000 and less	5.4 per cent

(c) Effective with calendar year 1992 and thereafter, before December 31 of the previous year the contribution rate schedule for the following calendar year shall be determined on the basis of the relationship between the most recent current reserve fund and the most recent adequate reserve fund, in accordance with this subsection and subsection (d).

(1) Whenever the ratio of the current reserve fund to the adequate reserve fund is greater than 1.69, contribution rate schedule A shall apply.

- (2) Whenever the ratio of the current reserve fund to the adequate reserve fund is 1.3 to 1.69, contribution rate schedule B shall apply.
- (3) Whenever the ratio of the current reserve fund to the adequate reserve fund is 1.0 to 1.29, contribution rate schedule C shall apply.
- (4) Whenever the ratio of the current reserve fund to the adequate reserve fund is .80 to .99, contribution rate schedule D shall apply.
- (5) Whenever the ratio of the current reserve fund to the adequate reserve fund is .60 to .79, contribution rate schedule E shall apply.
- (6) Whenever the ratio of the current reserve fund to the adequate reserve fund is .40 to .59, contribution rate schedule F shall apply.
- (7) Whenever the ratio of the current reserve fund to the adequate reserve fund is .20 to .39, contribution rate schedule G shall apply.
- (8) Whenever the ratio of the current reserve fund to the adequate reserve fund is less than .20, contribution rate schedule H shall apply.

(d) Subject to the requirements of section 383-63 to 383- 69, an employer's contribution rate for calendar year 1992 and for each calendar year thereafter shall be that rate which appears on the same line as the employer's reserve ratio for that year in the contribution rate schedule applicable for the year as specified in subsection (c).

CONTRIBUTION RATE SCHEDULES (rates in percentages)

Reserve Ratio	A	B	C	D	E	F	G	H
<u>.1500 and over</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.2</u>	<u>0.6</u>	<u>1.2</u>	<u>1.8</u>	<u>2.4</u>
<u>.1400 to .1499</u>	<u>0.0</u>	<u>0.0</u>	<u>0.1</u>	<u>0.4</u>	<u>0.8</u>	<u>1.4</u>	<u>2.0</u>	<u>2.6</u>
<u>.1300 to .1399</u>	<u>0.0</u>	<u>0.0</u>	<u>0.2</u>	<u>0.6</u>	<u>1.0</u>	<u>1.6</u>	<u>2.2</u>	<u>2.8</u>
<u>.1200 to .1299</u>	<u>0.0</u>	<u>0.1</u>	<u>0.4</u>	<u>0.8</u>	<u>1.2</u>	<u>1.8</u>	<u>2.4</u>	<u>3.0</u>
<u>.1100 to .1199</u>	<u>0.0</u>	<u>0.2</u>	<u>0.6</u>	<u>1.0</u>	<u>1.4</u>	<u>2.0</u>	<u>2.6</u>	<u>3.2</u>
<u>.1000 to .1099</u>	<u>0.1</u>	<u>0.3</u>	<u>0.8</u>	<u>1.2</u>	<u>1.6</u>	<u>2.2</u>	<u>2.8</u>	<u>3.4</u>
<u>.0900 to .0999</u>	<u>0.3</u>	<u>0.5</u>	<u>1.0</u>	<u>1.4</u>	<u>1.8</u>	<u>2.4</u>	<u>3.0</u>	<u>3.6</u>
<u>.0800 to .0899</u>	<u>0.5</u>	<u>0.7</u>	<u>1.2</u>	<u>1.6</u>	<u>2.0</u>	<u>2.6</u>	<u>3.2</u>	<u>3.8</u>
<u>.0700 to .0799</u>	<u>0.7</u>	<u>0.9</u>	<u>1.4</u>	<u>1.8</u>	<u>2.2</u>	<u>2.8</u>	<u>3.4</u>	<u>4.0</u>
<u>.0600 to .0699</u>	<u>0.9</u>	<u>1.1</u>	<u>1.6</u>	<u>2.0</u>	<u>2.4</u>	<u>3.0</u>	<u>3.6</u>	<u>4.2</u>
<u>.0500 to .0599</u>	<u>1.1</u>	<u>1.3</u>	<u>1.8</u>	<u>2.2</u>	<u>2.6</u>	<u>3.2</u>	<u>3.8</u>	<u>4.4</u>
<u>.0300 to .0499</u>	<u>1.3</u>	<u>1.5</u>	<u>2.0</u>	<u>2.6</u>	<u>3.0</u>	<u>3.6</u>	<u>4.2</u>	<u>4.8</u>
<u>.0000 to .0299</u>	<u>1.7</u>	<u>1.9</u>	<u>2.4</u>	<u>3.0</u>	<u>3.4</u>	<u>4.0</u>	<u>4.6</u>	<u>5.2</u>
<u>-.0000 to -.0499</u>	<u>2.1</u>	<u>2.3</u>	<u>2.8</u>	<u>3.4</u>	<u>3.8</u>	<u>4.4</u>	<u>5.0</u>	<u>5.4</u>
<u>-.0500 to -.0999</u>	<u>2.5</u>	<u>2.7</u>	<u>3.2</u>	<u>4.0</u>	<u>4.4</u>	<u>5.0</u>	<u>5.4</u>	<u>5.4</u>
<u>-.1000 to -.4999</u>	<u>2.9</u>	<u>3.1</u>	<u>3.6</u>	<u>4.6</u>	<u>5.0</u>	<u>5.4</u>	<u>5.4</u>	<u>5.4</u>
<u>-.5000 to -.9999</u>	<u>3.4</u>	<u>3.6</u>	<u>4.2</u>	<u>5.2</u>	<u>5.4</u>	<u>5.4</u>	<u>5.4</u>	<u>5.4</u>
<u>-1.0000 to -1.4999</u>	<u>4.1</u>	<u>4.2</u>	<u>4.8</u>	<u>5.4</u>	<u>5.4</u>	<u>5.4</u>	<u>5.4</u>	<u>5.4</u>
<u>-1.5000 to -1.9999</u>	<u>4.7</u>	<u>4.8</u>	<u>5.4</u>	<u>5.4</u>	<u>5.4</u>	<u>5.4</u>	<u>5.4</u>	<u>5.4</u>
<u>-2.0000 and less</u>	<u>5.4</u>	<u>5.4</u>	<u>5.4</u>	<u>5.4</u>	<u>5.4</u>	<u>5.4</u>	<u>5.4</u>	<u>5.4</u> "

SECTION 9. Statutory material to be repealed is bracketed. New statutory material is underscored.²

SECTION 10. This Act shall take effect upon its approval.

(Approved April 29, 1991.)

Notes

- 1. So in original.
- 2. Edited pursuant to HRS §23G-16.5.